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EXAMINER

DARNO, PATRICK A

ART UNIT

PAPER NUMBER

2158

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/813,359	<b>Applicant(s)</b> PFLEGER, KARL	
	<b>Examiner</b> PATRICK A. DARNO	<b>Art Unit</b> 2158	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-9,11-13,38,42-47 and 49-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-9,11-13,38,42-47 and 49-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. No new claims are added. Claims 3-6, 10, 14-37, 39-41, and 48 are canceled. Claims 1, 2, 7-9, 12, 13, 38, 44-47, 49, 52-58, and 60. Claims 1, 2, 7-9, 11-13, 38, 42-47, 49-60 are pending in this office action.

#### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 2, 11-13, 38, 42-44, 49, 52, and 59 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 9-11, and 12, 13, and 16-18 of U.S. Patent No. 7,536,382. Although the conflicting claims are not identical, they are not patentably distinct from each other.

It is noted that no common inventor exists between the instant application and U.S. Patent number 7,536,382. However, both the instant application and U.S. Patent Number 7,536,382 are

commonly assigned [Google Inc.]. As a result, an obvious type double patenting rejection is proper. See MPEP section 804, I, B.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 52-54 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With respect to claim 52, the claim is directed to a computer readable memory device that stores instructions. Paragraph [0064] of the Applicant's published specification recites that a computer readable medium may be comprised of a carrier wave. A carrier wave allegedly storing instructions is not a new and useful process, machine, manufacture, or composition of matter. Nor is a carrier wave allegedly storing instructions one of the three judicially created exceptions to patentable subject matter [abstract idea, laws of nature, and natural phenomena]. As a result, a carrier wave allegedly storing instructions is not patentable subject matter under 35 U.S.C. 101. Appropriate correction is required.

Claims 53-54 are rejected because they contain or inherit the deficiencies of claim 52.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 7-9, 11-13, 38, 42, 43, 45-47, 49-58, and 60 are rejected under 35 U.S.C.

102(e) as being anticipated by U.S. Patent Application Publication Number 2005/0131872 issued to Marcelo Calbucci et al. (hereinafter "Calbucci").

**Claim 1:**

Calbucci discloses an automated method, comprising:

receiving, by a processor, a search query [Calbucci: paragraph [0018], lines 4-5 and paragraph [0024], lines 13-15];

determining, by the processor, that the received search query includes an entity name corresponding to a particular entity [Calbucci: paragraph [0022], lines 1-5];

determining, by the processor, whether to rewrite the received search query [Calbucci: paragraph [0020], lines 1-3 and paragraph [0018], lines 4-9] based on information relating to selections of search results from prior searches conducted based on prior search queries including the entity name [Calbucci: paragraph [0018], lines 4-9 and paragraph [0026], lines 3-7];

rewriting, by the processor, the received search query to include a restrict identifier relating to a domain associated with the particular entity when the information [Calbucci: paragraph [0024], lines 13-15 and paragraph [0026] and paragraph [0027] and paragraph [0030], lines 9-10 paragraphs [0058] - [0060]], relating to selections of search results from the prior searches, indicates that search results relating to the particular entity were selected for the prior search queries including the entity name [Calbucci: paragraph [0018], lines 4-9 and paragraph [0026]];

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automatically performing, by the processor, a search restricted to the domain associated with the particular entity, based on the rewritten search query, to generate a list of search results

*[Calbucci: paragraph [0023], lines 1-10 and paragraph [0030] and paragraphs [0058] - [0060]]*; and

outputting, by the processor, the list of search results for presentation on a display

*[Calbucci: paragraph [0031]]*.

**Claim 7:**

Calbucci discloses all the elements of claim 1, as noted above, and Calbucci further discloses where the determining whether to rewrite the received search query comprises:

identifying entity identifiers associated with search result documents that were selected in connection with the prior searches involving the entity name *[Calbucci: paragraph [0018], lines 4-9 and paragraph [0031], lines 5-8]*;

determining a total number of selections for each of the entity identifiers *[Calbucci: paragraph [0018], lines 4-9 and paragraph [0031], lines 5-8 and paragraph [0055]]*, and

determining that the received search query should be rewritten when one of the entity identifiers, associated with the entity name, receives a total number of selections greater than other ones of the entity identifiers *[Calbucci: paragraphs [0058] - [0060]; In paragraph [0059] the query is rewritten to include a "local" restriction identifier because there is a 60% chance that it is local. This is more than the 40% chance that it is not local. Likewise in paragraph [0060], the query is rewritten with the "news" domain restriction identifier because there is an 80% chance the query is directed to the "news" category/domain. This is greater than the 20% chance that it is not directed to news. And this percentage is based on the user's selection of prior search results [Calbucci: paragraph [0055]].]*.

**Claim 8:**

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Calbucci discloses all the elements of claim 7, as noted above, and Calbucci further discloses where the determining whether to rewrite the received search query further comprises:

determining whether the total number of selections, for the one of the entity identifiers associated with the entity name, is greater than a threshold *[Calbucci: paragraph [0018], lines 4-9 and paragraph [0031], lines 5-8 and paragraph [0055] and paragraphs [0058] - [0060]]*, and

determining that the received search query should not be rewritten when the total number of selections for the one of the entity identifiers, associated with the entity name, is not greater than the threshold *[Calbucci: paragraphs [0024]-[0027] and Table 1; Note in this example that the query is not rewritten to include the science, mythology, or shopping domain restriction identifiers because the percentages based on the search results selected by the user [confidence level] is low.]*.

**Claim 9:**

Calbucci discloses all the elements of claim 1, as noted above, and Calbucci further discloses where the determining whether to rewrite the received search query comprises:

identifying entity identifiers associated with search result documents that were selected in connection with the prior searches involving the entity name *[Calbucci: paragraph [0018], lines 4-9 and paragraph [0031], lines 5-8,*

determining a distribution of a total number of selections for each of the entity identifiers *[Calbucci: paragraph [0018], lines 4-9 and paragraph [0031], lines 5-8 and paragraph [0055]]*, and

determining that the received search query should be rewritten when the distribution indicates that the total number of selections, for one of the entity identifiers associated with the entity name, is greater than the total number of selections for a subset of other ones of the entity identifiers *[Calbucci: paragraphs [0024]-[0027] and Table 1; Note in this example that the query is not rewritten*

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*to include the science, mythology, or shopping domain restriction identifiers because the percentages based on the search results selected by the user [confidence level] is low.].*

**Claim 11:**

Calbucci discloses all the elements of claim 1, as noted above, and Calbucci further discloses where the automatically performing a search based on the rewritten search query comprises:

searching a repository of documents using the rewritten search query *[Calbucci: paragraph [0015] and claim 6 and claim 22.].*

**Claim 12:**

Calbucci discloses a system implemented within one or more computer devices, comprising:

means for receiving a search query *[Calbucci: paragraph [0018], lines 4-5 and paragraph [0024], lines 13-15];*

means for determining that the received search query includes an entity name corresponding to a particular entity *[Calbucci: paragraph [0022], lines 1-5];*

means for rewriting the received search query to include a restrict identifier relating to a domain associated with the particular entity when the received search query includes the entity name *[Calbucci: paragraph [0018], lines 4-9 and paragraph [0020], lines 1-3 and paragraph [0026], lines 3-7 and paragraphs [0058] – [0060]];*

means for automatically performing a search restricted to the domain associated with the particular entity, based on the rewritten search query *[Calbucci: paragraph [0024], lines 13-15 and paragraph [0026] and paragraph [0027] and paragraph [0030], lines 9-10 and paragraphs [0058]-[0060]], to*



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obtain search results in lieu of performing a search based on the received search query *[Calbucci: paragraph [0023], lines 1-10 and paragraph [0030] and paragraphs [0058]-[0060]]*; and

means for providing the search results *[Calbucci: paragraph [0031]]*.

**Claim 13:**

Calbucci discloses a system, comprising:

a memory to store information relating to selections of search results from prior searches conducted based on prior search queries *[Calbucci: paragraph [0018], lines 4-5 and paragraph [0026] and paragraphs [0063] and [0064]]*; and

a processor to *[Calbucci: paragraph [0062], lines 1-3]*:

received a search query from a user *[Calbucci: paragraph [0018], lines 4-5 and paragraph [0024], lines 13-15]*;

determine whether the received search query includes an entity name corresponding to a particular entity *[Calbucci: paragraph [0022], lines 1-5]*;

determine whether to rewrite the received search query based on the information in the memory *[Calbucci: paragraph [0020], lines 1-3 and paragraph [0018], lines 4-9]*,

rewrite the received search query to restrict a search performance based on the rewritten search query to a domain associated with the particular entity *[Calbucci: paragraph [0024], lines 13-15 and paragraph [0026] and paragraph [0027] and paragraph [0030], lines 9-10 and paragraphs [0058]-[0060]]* when the information in the memory indicates that search results associated with the particular entity were selected for the prior search queries including the entity name *[Calbucci: paragraph [0018], lines 4-5 and paragraph [0026]]*,

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perform, without input from the user, a search restricted to the set of documents associated with the particular entity based on the rewritten search query to obtain search results *[Calbucci: paragraph [0023], lines 1-10 and paragraph [0030] and paragraphs [0058] – [0060]]*, and

present the search results *[Calbucci: paragraph [0031]]*.

**Claim 38:**

Claim 38 is rejected under the same reasons set forth in the rejections of claims 1, 12, and 13.

**Claim 42:**

Claim 42 is rejected under the same reasons set forth in the rejections of claims 1, 12, and 13. Further, note specifically that at least Calbucci: paragraph [0030] restricts the domain of the search to “car selling” data sources entities. Clearly a "car selling" web site is a particular store selling a particular product.

**Claim 43:**

Claim 42 is rejected under the same reasons set forth in the rejections of claims 1, 12, and 13. Further note particular Calbucci: paragraphs [0014] and paragraph [0060] disclose wherein the domain is restricted to a news entity.

**Claim 45:**

Claim 45 is rejected under the same reasons set forth in the rejection of claim 45.

**Claim 46:**

Claim 46 is rejected under the same reasons set forth in the rejection of claim 8.

**Claim 47:**

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Claim 47 is rejected under the same reasons set forth in the rejection of claim 9.

**Claim 49:**

Claim 49 is rejected under the same reasons set forth in the rejection of claim 11.

**Claim 50:**

Calbucci discloses all the elements of claim 1, as noted above, and Calbucci further discloses where the entity name corresponds to a store name associated with a particular store *[Calbucci: paragraph [0030], lines 9-10]*, and

automatically performing the search restricted to the domain associated with the particular entity includes automatically performing a search restricted to a domain associated with the particular store *[Calbucci: paragraph [0030], lines 9-10 and paragraphs [0024]-[0028] and paragraphs [0058]-[0060]]*.

**Claim 51:**

Calbucci discloses all the elements of claim 1, as noted above, and Calbucci further discloses where the entity name corresponds to a name of a particular news *[Calbucci: paragraphs [0014] and paragraph [0060]]*, and

automatically performing the search restricted to the domain associated with the particular entity includes automatically performing a search restricted to a domain associated with the particular news source *[Calbucci: paragraphs [0014] and paragraph [0060] and paragraphs [0024]-[0028] and paragraphs [0058]-[0060]]*.

**Claim 52:**

Claim 52 is rejected under the same reasons set forth in the rejections of claims 1, 12, and 13, and further in view of Calbucci: paragraph [0064] and claim 30.

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**Claim 53:**

Claim 53 is rejected under the same reasons set forth in the rejection of claim 7.

**Claim 54:**

Claim 54 is rejected under the same reasons set forth in the rejection of claim 9.

**Claim 55:**

Claim 55 is rejected under the same reasons set forth in the rejection of claim 7.

**Claim 56:**

Claim 56 is rejected under the same reasons set forth in the rejection of claim 9.

**Claim 57:**

Claim 57 is rejected under the same reasons set forth in the rejection of claim 7.

**Claim 58:**

Claim 58 is rejected under the same reasons set forth in the rejection of claim 8.

**Claim 60:**

Claim 60 is rejected under the same reasons set forth in the rejection of claim 9.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 2, 44, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calbucci, and further in view of U.S. Patent Number 6,006,225 issued to Dwayne E. Bowman et al. (hereinafter “Bowman”).

**Claim 2:**

Calbucci discloses all the elements of claim 1, as noted above, but Calbucci fails to expressly disclose:

providing a link to the received search query with the search results, where selection of the link causes a search to be performed based on only the received search query.

However Bowman discloses providing a link to the received search query with the search results, where selection of the link causes a search to be performed based on only the received search query [*Bowman: Fig. 9, element 10*].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Calbucci with the teachings of Bowman noted above for the purpose of providing a link to a query with displayed search results [*Bowman: Fig. 9*]. The skilled artisan would have been motivated to improve the teachings of Calbucci per the above in order to provide the user with an easy and efficient means to narrow displayed search results to results which may be more specific [*Bowman: Fig. 9*].

**Claim 44:**

Claims 44 is rejected under the same reasons set forth in the rejection of claim 2.

**Claim 59:**

Claim 59 is rejected under the same reasons set forth in the rejection of claim 2.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PATRICK A. DARNO whose telephone number is (571)272-0788. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ali can be reached on (571) 272-4105. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mohammad Ali/  
Supervisory Patent Examiner, Art Unit 2158

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Examiner  
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08-07-2009

PAD